

**MARYLAND ENERGY ADMINISTRATION
COMMUNITY WINDSWEPT PROGRAM
GRANT AGREEMENT**

**STATE OF MARYLAND
MARYLAND ENERGY ADMINISTRATION**
60 West Street, Suite 300
Annapolis, Maryland 21401

hereinafter “MEA”

and

Grantee Name
Address

hereinafter “Grantee”

PREMISES

The Maryland Energy Administration administers the Strategic Energy Investment Program set forth in Sections 9-20B-01 et seq. of the State Government Article as a component of its overall mission to reduce energy demand and increase energy efficiency and the use of renewable energy resources. MEA has established the “Community Windswept Program” (the “Program”) pursuant to the authority provided in Section 9-20B-01, et seq. of the State Government Article and consistent with the Code of Maryland Regulations (“COMAR”) §§14.26.04 et seq. The purpose of the Program is to provide funding to an eligible business, non-profit organization, or State and local government entity in order to support community-scale wind projects located within Maryland using turbines that range from 50 kW to 1000 kW in size.

MEA issued a notice of grant availability on (date). MEA used the following criteria to determine a successful applicant for this Program: greatest project capacity, greatest funding leverage, the submission of a feasibility study, the quality of the feasibility study, and geographic diversity of grants awarded. MEA gave preference to applicant that included letters of support from participating and affected entities and whose projects were using turbines that are New York State Energy Research and Development Authority (NYSERDA) eligible, or certified by either the Interstate Turbine Advisory Council (ITAC) or the Small Wind Certification Council (SWCC). Potential benefits of a selected project include, but are not limited to, community ownership, community power purchase, or serving load at a local community, academic, or municipal facility.

Grantee submitted an application for a grant to be used to fund a [insert system size] community-scale wind project in [insert county name] County.

MEA has evaluated Grantee's proposal and has selected Grantee to receive a grant award, as defined herein, subject to Grantee completing the installation of an operating project, and complying with all requirements, terms and conditions of this Agreement and the Grant Program.

NOW, THEREFORE, the parties hereby agree as follows:

I. Purpose of Grant

The purpose of this Community Windswept Program Grant (the "Grant") is to provide funding to offset the costs associated with constructing a [size] community-scale wind project in [County name], as described in Attachment A, referenced in Paragraph II below. MEA chose the Grantee's proposed project as described in the Community Windswept Application Form submitted by Grantee. MEA reserves the right to modify or revoke the Grant award in the event of a change to the proposed Project by Grantee.

II. Project Description

(a) Program Components.

(i) Attachment A. The Project is more specifically described in Attachment A, which is incorporated and made a part of this Agreement. Attachment A shall not contain any terms or conditions other than a Project Description and Project Completion timeline. If Attachment A contains any terms and conditions other than a Project Description, such terms and conditions are not incorporated into this agreement, and are not agreed to by MEA. In the event of any conflicts between Attachment A and this Agreement, the terms of this Agreement shall control.

(ii) Requested Modifications to Attachment A. Prior to changing any characteristics of the Project as described in Attachment A, the Grantee shall obtain a modification in writing to Attachment A. In order to be considered, the Grantee shall submit a written request for modification to Attachment A to the Program Manager.

(b) Reimbursable costs. Only those costs or expenditures specified below are eligible for reimbursement under this Grant. Reimbursable costs are limited to design, permitting, construction, materials, and project management.

III. Amount and Duration of the Grant

(a) The total amount of the Grant Award is either up to \$3,000 per kW of Normalized System Capacity (turbine output at 11m/s wind speed) or up to 50% of project costs minus non-MEA incentives (“Net Project Costs”), whichever is less. Under no circumstances shall the Grant Award be greater than **XXX Thousand Dollars (\$XXX,000)**.

(i) When calculating Net Project Costs, MEA will include allowable costs associated with design, permitting, construction, materials, and project management. MEA will deduct all federal, state, and local tax incentives and any grant funding for the Project, including from federal, State, and local government, and private entities.

(b) This Agreement shall be signed by the Grantee and received by MEA no later than May 1, 2015. If this properly signed Grant Agreement is not received by MEA on or before May 1, 2015, the grant award is revoked and this Agreement is void unless in advance of May 1, 2015, MEA receives Grantee’s written extension request is and it is approved in writing by the MEA Program Manager . In order to be considered, MEA shall receive any extension request at least 2 business days prior to May 1, 2015.

(c) The Effective Date of this Agreement is the date that the properly executed Agreement is received by MEA, as determined by the official MEA date stamp on the first page of the Agreement.

(d) Unless an extension is permitted as described below, the proposed Project shall be completed and in operation by June 15, 2016. The Grantee shall also submit all Grant Completion Paperwork required under Section IV(b) by no later than June 15, 2016. Extensions may be requested in writing in advance of a deadline, but are not guaranteed. Extensions shall only be permitted for good cause shown, such as circumstances outside of Grantee’s control, as determined solely by MEA in writing.

IV. Reporting and Reimbursement Requirements

(a) The Grantee shall retain bills of sale or other satisfactory evidence of the acquisition of any real or personal property, as well as reports, activity logs, timelines, estimated and actual energy savings and/or generated, supporting documentation for any other expenses that are covered in whole or in part by any Grant Funds, and any other information related to Grant activities for at least three years from the date that the Grantee receives final reimbursement from MEA. MEA, MEA’s agents, the Department of Budget and Management, the State Comptroller, the Legislative Auditor, or any of them, may examine and audit this evidence on request, at any reasonable time within the retention period. In addition, the Grantee shall also make the worksite available to MEA, or its agents, upon

request at any reasonable time for at least three years from the date that the Grantee receives final reimbursement from MEA.

(b) To receive reimbursement, Grantee shall submit Grant Completion Paperwork consisting of the following:

- A Copy of the Community Windswept Grant Completion Certificate;
- Proof that the project is paid in full, with a copy of all zero-balance, final invoices attached; and
- Copies of all inspection documents, permits and licenses that are required to construct and operate the Project.

(c) A photograph of the installed and operational Project The Grantee may submit reimbursement requests electronically after obtaining authorization in writing from MEA. If authorization has not been obtained for Grantee to submit reimbursement requests electronically, Grantee shall mail reimbursement requests to MEA at the following address:

**Maryland Energy Administration
Attn: Community Windswept Program
60 West Street, Suite 300
Annapolis, MD 21401**

After review of the Grant Completion Paperwork and any supporting documents or information requested by MEA, including potential site inspection, MEA shall make a final determination whether the Project, as constructed and operational, meets all Program requirements, terms and conditions, and process the grant award for payment as promptly as possible, if warranted. Grant funds shall not be provided for work that has yet to be performed, costs that have yet to be incurred or are not sufficiently documented, or are inconsistent with the purpose, terms and conditions of the Grant.

(d) For monitoring and evaluation purposes, the Grantee shall make available to MEA, or its agents, all reports, activities logs, work sites, timelines, estimated and actual energy savings and/or generated, or other information related to the Grant activities during regular business hours.

(e) No grant monies will be funded for costs or obligations incurred, or work performed, prior to the Effective Date of this Agreement.

(f) Prior to execution of this Agreement, Grant funds are subject to change in amount and existence based on funding availability.

- (g) Multiple projects on contiguous parcels of property will be considered one Project.
- (h) A Project may not receive more than one Community Windswept grant from MEA.
- (i) Projects must be located within the borders of Maryland.

V. General Conditions

- (a) Any expenditure of Grant funds that is not consistent with the purposes of the grant award, or that violates any requirement, term or condition of the Grant Program or this Agreement, may, in the sole judgment of MEA, be disallowed. Should any expenditure be disallowed, the State may require repayment to MEA for reimbursement of the Strategic Energy Investment Funds, an offset from any State grant to the Grantee in the current or succeeding fiscal year, or other appropriate action. The Grantee shall immediately repay to the State any part of the Grant that is not used for the purposes of the Program.
- (b) Grantee may not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or any other characteristic forbidden as a basis for discrimination by applicable laws, and certifies that its Constitution or by-laws contains a non-discrimination clause consistent with the Governor's Code of Fair Practices.
- (c) Grantee shall ensure that all work performed pursuant to the Grant and this Agreement is completed by contractors and/or staff holding all necessary certifications and licenses. Additionally, all work performed pursuant to the Grant shall comply with all applicable local, State, and federal building codes and other applicable laws and regulations.
- (d) The person executing this Agreement on behalf of the Grantee certifies, to the best of that person's knowledge and belief, that:
 - (i) He or she is authorized to sign this Agreement on behalf of the Grantee and to commit the Grantee to the obligations set forth herein.
 - (ii) Neither the Grantee, nor any of its officers or directors, nor any employee of the Grantee involved in obtaining contracts with or grants from the State or any subdivision of the State, has engaged in collusion with respect to the Grantee's application for the Grant or this Agreement or has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the United States;

(iii.) Neither the Grantee, nor any of its officers or directors, nor any employee of the Grantee has engaged in any practice with regard to this Grant that is inconsistent with the Maryland Code, State Government Article, Section 15-508;

(iv) Grantee has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Grantee, to solicit or secure the Grant or this Agreement, and the Grantee has not paid or agreed to pay any such entity any fee or other consideration contingent on the making of the Grant or this Agreement;

(v) Grantee, if a business or non-profit organization, is incorporated or is registered to do business in the State, and is in good standing with the Maryland State Department of Assessments and Taxation;

(vi) Grantee, if a health or social welfare organization as defined by Section 7-403 of the State Finance and Procurement Article of the Annotated Code of Maryland, shall keep financial records in accordance with uniform accounting standards, as more fully described in Section 7-403;

(vii) Neither the Grantee, nor any of its officers or directors, nor any person substantially involved in the contracting or fund-raising activities of the Grantee, is currently suspended or debarred from contracting with the State or any other public entity or subject to debarment under Regulation 21.08.04.04 of the Code of Maryland Regulations; and

(viii) The Grantee is not in default on any financial obligation to the State or MEA.

VI. False Statement or Report

A person may not knowingly make or cause to be made any false statement or report in any document required to be furnished by MEA in relation to the Grant Program. Any violation of this provision is a misdemeanor and on conviction is subject to a fine not exceeding \$50,000.00 or imprisonment not exceeding 1 year or both. Md. Code, Section 9-20B-11 of the State Government Article.

VII. Historic Preservation Review

For each project being funded in whole or in part through this Agreement, a historical preservation review must first be completed by the Maryland Historical Trust (MHT) or MEA's historical preservation expert. This review ensures that no historical

property is “adversely affected” through this Program. Prior to starting construction, Grantee must have documentation from MHT or MEA’s historical preservation expert indicating that the Project will have no adverse effect on a historical property.

VIII. Maryland Saved Harmless

To the extent allowed by Maryland law, the Grantee agrees to defend, indemnify and hold MEA harmless from and against any and all damages, claims, lawsuits, actions, and reasonable out-of-pocket costs and expenses, in whatever form, arising from or related to the Grant. MEA expressly reserves the right of any immunity MEA or its employees may possess under State or federal law. If the Grantee is a Maryland State agency or local government, then each party shall be responsible for its own liability associated with the Grant, and neither party waives any applicable immunities.

IX. Environmental Standards and Liability

The Grantee shall ascertain and abide by all applicable environmental standards set by federal, state or local laws, rules or regulations related to the performance of the obligations pursuant to the Agreement (hereinafter referred to as “Environmental Standards”). The Grantee shall monitor its compliance with Environmental Standards and immediately halt and correct any incident of non-compliance.

In the event of any incident of non-compliance with Environmental Standards, the Grantee shall:

1. Give MEA immediate notice of the incident to the Agreement Representative, or designee, providing as much detail as possible;
2. If requested by MEA, submit a written report to MEA, identifying the source or cause of the non-compliance and the method or action required to correct the problem; and
3. Cooperate with MEA or its designated agents or contractors with respect to the investigation of such problem.

To the limits allowed by Maryland law (and without waiving any local or State government immunities that may apply if Grantee is a Maryland State or local government), the Grantee shall be liable for (a) all environmental losses, including but not limited to, costs, expenses, losses, damages, actions, claims, penalties, fines and remedial or cleanup obligations arising from its failure to comply with Environmental Standards; and (b) any hazardous material located or placed in the Project and any requirements imposed by any governmental authority with respect to hazardous materials, arising in connection with the Grant or the Project.

X. Liability Insurance

(a) For all work performed by the Grantee that is to be funded in whole or in part with grant funds provided by MEA, Grantee shall purchase and maintain comprehensive third-party legal liability insurance or its equivalent. Grantee shall also maintain other such insurance as is appropriate for the work to be performed. For a Maryland State or local government entity that is self-insured, a document detailing the statutory basis for self-insurance may be accepted by MEA as an equivalent form of insurance under this paragraph.

(b) All insurance must name MEA as an additional insured. The insurance provided shall include, but not be limited to, insurance protecting MEA from bodily injury and property damage, including, but not limited to all workers' compensation insurance, and errors and omissions. Grantee shall maintain insurance documentation in a Grantee-owned facility and shall provide to MEA, upon demand, a certificate or other documentation deemed appropriate by MEA, evidencing MEA's status as an additional insured.

(c) Insurance requirements may be waived or modified by MEA in writing, for good cause shown. Any such written waiver or modification shall be signed by the parties, and attached hereto and incorporated herein as part of this Agreement.

(d) Grantee shall include in all of its contracts for work that is to be funded in whole or in part with grant funds provided by MEA a provision or provisions requiring all contractors to purchase and maintain comprehensive third-party legal liability insurance and other such insurance as is appropriate for the work to be performed. All insurance provided by the contractor must name MEA as an additional insured. The insurance provided shall include, but not be limited to, insurance protecting MEA from bodily injury and property damage, including, but not limited to all workers' compensation insurance, and errors and omissions.

(e) Grantee shall maintain insurance documentation in a Grantee-owned facility and shall provide to MEA, upon demand, a certificate or other documentation deemed appropriate by MEA, evidencing MEA's status as an additional insured. Insurance requirements may be waived by MEA in writing, for good cause shown. Any such written waiver or modification shall be signed by the parties, and attached hereto and incorporated herein as part of this Agreement.

XI. MEA Access to Project Site and Ability to Use Project Information

(a) Grantee shall allow MEA employees or representatives access to the relevant building and structures so that MEA may perform monitoring visits to provide technical assistance and to ensure that project requirements are fully satisfied. Grantee shall also allow MEA employees or representatives access to

the relevant project site in order to take photographs or video of the project for MEA use.

(b) The Grantee understands and agrees that MEA may use information about the project for reporting and marketing purposes, including but not limited to the project description, building type, energy measures, project costs, leveraged funds, energy and financial savings, and pictures and videos of the premises. MEA shall provide the Grantee an opportunity to review and consult with MEA to assure that a written case study, photo or video taken of its facility will not disclose confidential personal and/or business information.

(c) If the Project's location is owned or controlled by a third party at any time during the Grant period, the Grantee shall be responsible for obtaining written permission from the third party to allow MEA access to the property for all of the purposes described in this Agreement. MEA shall not provide any further reimbursement of funds under the Agreement until Grantee provides a copy of the form entitled *Maryland Energy Administration Community Windswept Program Consent for MEA Staff or Representative to Enter Property* signed by the third party in control of the property.

XII. Maryland Law Prevails

The internal laws of Maryland shall govern the interpretation and enforcement of this Agreement, except for any choice of law provisions utilized by Maryland.

XII. Agreement Binding on Successors and Assigns

This Agreement shall bind the respective successors and assigns of the parties.

XIII. Assignment or Transfer

The Grantee may not sell, transfer, or assign any of its obligations under this Agreement, or its rights, title, or interest in this Agreement, without further prior written consent of MEA.

XIV. Amendments to the Grant

No amendment to this Agreement is binding unless it is in writing and signed by both parties.

XV. Party Representatives

The following individuals shall have the authority to act under this Agreement for their respective parties, subject to all necessary approvals:

Program Manager Name, Program Manager

Maryland Energy Administration

(410) 260-XXXX

(Or any such person as may be designated in writing by the Director of MEA.)

Grantee Project Manager, Title

Grantee Name

(301)-XXX-XXXX

(Or any other person as may be designated in writing by the Grantee's Executive Director.)

XVI. Merger

This Agreement and any terms and conditions expressly incorporated by reference herein embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations referring to the subject matter, other than those contained herein or incorporated herein by reference.

XVII. Non-waiver of Rights; Remedies

No failure on the part of the State or MEA to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude the State or MEA from further exercising that or any other right. The remedies provided under this Agreement are cumulative and not exclusive of any remedies provided by law.

THIS GRANT AGREEMENT HAS BEEN APPROVED BY THE ATTORNEY GENERAL'S OFFICE AT MEA. NO CHANGES, MODIFICATIONS, ADDITIONS OR DELETIONS TO THIS AGREEMENT ARE AUTHORIZED ABSENT SPECIFIC WRITTEN AGREEMENT BY THE PARTIES AND APPROVAL BY THE ATTORNEY GENERAL'S OFFICE AT MEA. ANY UNAUTHORIZED CHANGES, MODIFICATIONS, OR DELETIONS TO THIS FORM AGREEMENT WILL RENDER MEA'S OBLIGATIONS UNDER THIS AGREEMENT VOIDABLE AT MEA'S ELECTION.

IN TESTIMONY WHEREOF, WITNESS the hands and seals of the parties.

GRANTEE NAME

By: _____

Title of individual with signature authority for Grantee

MARYLAND ENERGY ADMINISTRATION

By: _____

Abigail Ross Hopper, Director

Approved for Form and Legal Sufficiency
this _____ day of _____, 2014.

Assistant Attorney General